

## HOUSE BILL NO. 156

INTRODUCED BY G. MATTHEWS

BY REQUEST OF THE ATTORNEY GENERAL

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO MOTOR VEHICLE DEALERS; CLARIFYING CURBSTONING PROHIBITIONS; ALLOWING ISSUANCE OF COURTESY LICENSE PLATES; CLARIFYING THAT SELLERS OF SMALL TRAILERS ARE NOT REQUIRED TO HAVE A DEALER'S LICENSE; AMENDING SECTIONS 61-1-314, 61-4-101, 61-4-105, 61-4-123, 61-4-124, AND 61-4-125, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Unlawful curbstoning of vehicle for sale.** (1) Except as provided in 61-4-123, a person may not display or park a motor vehicle offered or posted for sale on real property in which the person does not have a legal interest if the ~~primary purpose of displaying or parking the vehicle on the property is to promote or effect the sale of the vehicle.~~

~~——— (2) This section does not prohibit the display or parking of a vehicle offered or posted for sale when:~~

~~——— (a) the display or parking of the vehicle is incidental to the actual operation and immediate use of the vehicle by the vehicle owner;~~

~~——— (b) the vehicle owner obtains the written consent of the real property owner, lessee, or agent of the owner or lessee on whose property the motor vehicle is displayed and posts the written consent or a copy of the written consent in the front or rear window of the motor vehicle; or~~

~~——— (c) unless otherwise prohibited by local ordinance, the motor vehicle is displayed on a public street that is adjacent to real property in which the person offering the vehicle for sale has a legal interest VEHICLE OFFERED OR POSTED FOR SALE IS NOT REGISTERED TO THE PERSON OFFERING OR POSTING IT FOR SALE OR TO A HOUSEHOLD OR FAMILY MEMBER OF THE PERSON OFFERING OR POSTING IT FOR SALE PRIMARY PURPOSE OF DISPLAYING OR PARKING THE VEHICLE ON THE PROPERTY IS TO PROMOTE OR EFFECT THE SALE OF THE VEHICLE.~~

(2) THIS SECTION DOES NOT PROHIBIT THE DISPLAY OR PARKING OF A VEHICLE OFFERED OR POSTED FOR SALE WHEN:

1 (A) THE DISPLAY OR PARKING OF THE VEHICLE IS INCIDENTAL TO ACTUAL OPERATION AND IMMEDIATE USE OF THE  
2 VEHICLE BY THE VEHICLE OWNER;

3 (B) THE VEHICLE OWNER OBTAINS THE WRITTEN CONSENT OF THE REAL PROPERTY OWNER, LESSEE, OR AGENT OF  
4 THE OWNER OR LESSEE ON WHOSE PROPERTY THE MOTOR VEHICLE IS DISPLAYED AND POSTS THE WRITTEN CONSENT OR  
5 A COPY OF THE WRITTEN CONSENT IN THE FRONT OR REAR WINDOW OF THE MOTOR VEHICLE; OR

6 (C) UNLESS OTHERWISE PROHIBITED BY LOCAL ORDINANCE, THE MOTOR VEHICLE IS DISPLAYED ON A PUBLIC  
7 STREET THAT IS ADJACENT TO REAL PROPERTY IN WHICH THE PERSON OFFERING THE VEHICLE FOR SALE HAS A LEGAL  
8 INTEREST.

9 ~~(3)(2)(3)~~ A person ~~convicted of violating~~ WHO VIOLATES subsection (1);

10 (A) is guilty of a misdemeanor and is subject to a fine CIVIL PENALTY in WRITTEN WARNING FOR THE FIRST  
11 VIOLATION; AND

12 (B) FOR A SECOND OR SUBSEQUENT VIOLATION, IS GUILTY OF A MISDEMEANOR AND UPON CONVICTION MAY BE  
13 FINED an amount of not less than \$250 and not more than \$500.

14 ~~(4)(3)(4)~~ Each violation of subsection (1) is ~~considered a separate offense~~ SUBJECT TO A SEPARATE  
15 CIVIL PENALTY CONSIDERED A SEPARATE OFFENSE.

16  
17 **NEW SECTION. Section 2. Courtesy license plates -- design and issuance -- restrictions on use.**

18 (1) The department may design courtesy license plates to be issued to a new or used motor vehicle dealer  
19 for use in accordance with this section. The plates must bear the license number assigned to the dealer,  
20 an abbreviation for the vehicle type of the dealer's license, and the word "COURTESY".

21 (2) Upon application and payment of an annual fee of ~~\$100~~ \$150 A SET, the department may issue  
22 ~~one set~~ UP TO TWO SETS of courtesy plates to a dealer.

23 (3) Courtesy license plates may be displayed only on a motor vehicle that the dealer loans, without  
24 charge or fee, ~~to a nonprofit corporation or association organized and operated exclusively for religious,~~  
25 ~~charitable, scientific, or educational purposes.~~ Loan A LOAN of a vehicle displaying courtesy license plates  
26 ~~to an eligible corporation or association~~ may not exceed 30 days in a year.

27 (4) A dealer shall maintain records detailing to whom a vehicle bearing courtesy plates has been  
28 loaned, the date of the loan, the date on which the vehicle bearing courtesy plates is to be returned, and  
29 the actual date of the vehicle's return. These records must include the name, address, and telephone  
30 number of the ~~corporation or association~~ PERSON OR ENTITY to whom the vehicle has been loaned and the

1 name of a contact person ~~from the corporation or association~~ who will oversee the actual operation and  
2 use of the vehicle. The records are subject to audit by the department.

3 (5) It is the dealer's responsibility to ensure that courtesy plates are not used by an eligible  
4 ~~corporation or association~~ PERSON OR ENTITY for more than 30 days in a year.

5 (6) It is the responsibility of the ~~corporation or association~~ PERSON OR ENTITY to whom the vehicle  
6 bearing courtesy plates was loaned to carry, while operating or in actual physical control of the vehicle,  
7 adequate proof of the status of the ~~corporation or association~~ PERSON OR ENTITY under this section.

8 ~~—— (7) A person who operates or is in an actual physical control of a vehicle bearing courtesy plates~~  
9 ~~in violation of this section is guilty of a misdemeanor and is subject to a fine in an amount of not less than~~  
10 ~~\$250 and not more than \$500.~~

11 ~~(8)(7) A~~ IF A dealer ~~who~~ allows a person OR ENTITY to operate or retain actual physical control of  
12 a vehicle bearing courtesy plates in violation of this section ~~is guilty of a misdemeanor and is subject to~~  
13 ~~criminal and civil penalties under 61-4-105,~~ THE DEPARTMENT MAY SUSPEND THE RIGHT TO USE THE COURTESY  
14 PLATES FOR A PERIOD NOT TO EXCEED 6 MONTHS.

15

16 **Section 3.** Section 61-1-314, MCA, is amended to read:

17 **"61-1-314. Dealer.** (1) "Dealer" means:

18 ~~—— (a) a person, firm, association, or corporation that, for commission or profit, engages in whole or~~  
19 ~~in part in the business of buying, selling, exchanging, accepting on consignment, or acting as a broker of~~  
20 ~~new motor vehicles or used motor vehicles for which certificates of ownership have not been issued and~~  
21 ~~that are not registered in the name of the person, firm, association, or corporation and for whom a dealer's~~  
22 ~~license that is ARE required to be licensed under chapter 4 of this title;~~

23 ~~—— (b) an owner of real property who allows more than three new or used motor vehicles not titled~~  
24 ~~in the property owner's or the seller's name to be offered for sale on the property during 1 calendar year~~  
25 ~~unless the property is leased to a motor vehicle dealer licensed under 61-4-101 and the vehicles offered~~  
26 ~~for sale are bona fide units of the licensed dealer's inventory; or~~

27 ~~—— (c) an owner of a motor vehicle that is offered for sale and is displayed on real property in which~~  
28 ~~the motor vehicle owner does not have a legal interest, and the primary purpose for displaying the motor~~  
29 ~~vehicle on the real property is to effect the sale of the motor vehicle.~~

30 (2) The term "dealer" does not include the following:

(a) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under a judgment or order of any court of competent jurisdiction;

(b) employees of the persons included in subsection (2)(a) when engaged in the specific performance of their duties as employees; or

(c) public officers while performing or in the operation of their duties;

~~———— (d) a motor vehicle owner who obtains the written consent of the real property owner, lessee, or agent of the owner or lessee on whose property the motor vehicle is displayed and who posts the written consent or a copy of the written consent in the front or rear window of the motor vehicle; or~~

~~———— (e) a person who attempts to effect a sale of the person's motor vehicle by displaying the motor vehicle on a public street or public area that abuts real property in which the person has a legal interest."~~

**Section 4.** Section 61-4-101, MCA, is amended to read:

**"61-4-101. Dealer's license -- types of licenses and terms -- plates -- bonds -- zoning.** (1) Except as provided in 61-4-125, a person may not engage in the business of buying, selling, exchanging, accepting on consignment, or acting as a broker of a new motor vehicle or used motor vehicle, new or used recreational vehicle, trailer (except a trailer having an unloaded weight of less than 500 pounds), motorcycle, quadricycle, or special mobile equipment ~~for which a certificate of ownership has not been issued and~~ that is not registered in the person's name, unless the person is the holder of a dealer's license issued by the department under this part.

(2) (a) The department is authorized to issue a dealer's license for one or more specified vehicle types to any person ~~that~~ whom it determines is qualified to hold a license under the provisions of this section. A dealer's license may be issued for, and restricted to, one or more of the following vehicle types:

(i) new motor vehicle;

(ii) used motor vehicle;

(iii) new recreational vehicle;

(iv) used recreational vehicle;

(v) trailer ~~of any size~~, or special mobile equipment; or

(vi) motorcycle or quadricycle.

(b) For each type of dealer's license authorized, the department shall design and issue dealer and demonstrator plates as provided in 61-4-102 and 61-4-129.

(c) With the exception of a licensed new motor vehicle dealer, a dealer licensed for a particular type of vehicle may sell, trade, or accept on consignment only vehicles of the type for which the license is authorized, unless the dealer's license specifically refers to more than one vehicle type, such as a motorcycle or quadricycle license. A new motor vehicle dealer is authorized to sell, trade, or accept on consignment new motor vehicles or used motor vehicles.

(d) Regardless of vehicle type, a dealer's license issued by the department has a term of 1 calendar year, commencing on or after January 1 in the year of issue and expiring on December 31 of the same year.

(3) (a) An applicant for a dealer's license shall submit a written application for a dealer's license to the department, specifying the type or types of dealer's license sought. The application must be signed by the applicant and contain a verification by the applicant, under penalty of law, that the information contained in the application is true and correct. Any information provided in the license application process is subject to independent verification by the department or ~~a duly~~ an authorized representative of the department.

(b) After examining a license application and conducting an investigation necessary to verify the information contained in the application and if the department is satisfied that the applicant qualifies for the issuance of a license under the provisions of this chapter, the department may issue the license. The department may refuse, after examination and investigation, to issue a license to an applicant who is not qualified for licensure or whose prior financial or other activities or criminal record, as determined by the department:

(i) ~~pose~~ poses a threat to the effective regulation of dealers, wholesalers, or auto auctions;

(ii) ~~pose~~ poses a threat to the public interest of the state; or

(iii) ~~create~~ creates a danger of illegal or deceptive practices being used in the conduct of the proposed dealership, wholesaler, or auto auction.

(4) To be qualified for licensure as a dealer, an applicant shall provide to the department the following:

(a) the name under which the applicant intends to conduct business and the name, address, date of birth, and social security number of any person who possesses or will possess an ownership interest in the business for which the license is sought. If the applicant is a corporation, the personal information required in this subsection (4)(a) must be provided for each corporate officer and the person designated

1 by the corporation to manage or oversee the dealership.

2 (b) for each person subject to the provisions of subsection (4)(a), information concerning whether  
3 the person has:

4 (i) an ownership interest in a vehicle dealership or a wholesaler business in Montana or another  
5 jurisdiction and, if so, the name and address of each dealership or wholesaler; and

6 (ii) been found guilty of, or pleaded guilty to, a felony in this or any other jurisdiction and, if so,  
7 shall provide a summary of the conduct resulting in the felony charge, including the dates of the conduct  
8 and any court proceedings pertaining to the conduct and the name and address of any court in which the  
9 matter was heard;

10 (c) the name, address, and telephone number of the insurance carrier from whom the applicant  
11 has acquired garage ~~keepers~~ liability insurance, naming the department as a certificate holder of the policy,  
12 and the name, address, and telephone number of the local insurance agent for the carrier and the  
13 applicant's policy number. The insurance must cover any vehicle bearing dealer or demonstrator license  
14 plates that is offered for demonstration or loan to, or otherwise operated by, a customer in the regular  
15 course of the applicant's business and must be for a minimum of 1 year;

16 (d) the geographic location of the physical lot or lots upon which vehicles will be displayed for sale  
17 and of a permanent nonresidential building that will be maintained to store the actual physical or electronic  
18 records resulting from the purchase, sale, trade, or consignment of vehicles for which licensure is sought.  
19 An applicant may use more than one location to display vehicles for sale, ~~provided if~~ the maximum  
20 distance between each display lot does not exceed 200 feet and if the distance between a display lot and  
21 the building in which vehicle sales records are stored does not exceed 1,000 feet.

22 (e) for each geographic location specified in the application, evidence of the applicant's compliance  
23 with applicable local land use planning, zoning, and business permitting requirements, if any. Evidence of  
24 compliance may be documented by means of a written verification of compliance signed by the authorized  
25 representative of the local land use planning or zoning board or the local business permitting agency.

26 (f) a diagram or plat showing the geographic location, lot dimensions, and building and sign  
27 placement for the applicant's proposed established place of business, along with two or more photographs  
28 of the geographic location, building premises, and sign, as prescribed by the department;

29 (g) a certification by the applicant that the applicant is a bona fide dealer in new motor vehicles,  
30 used motor vehicles, used recreational vehicles, trailers, motorcycles, quadricycles, or special mobile

1 equipment;

2 (h) if the applicant is seeking a new motor vehicle dealer's license:

3 (i) the name and address of the manufacturer, importer, or distributor with whom the applicant  
4 has a written new motor vehicle franchise or sales agreement and the name and make of all motor vehicles  
5 to be handled by the applicant;

6 (ii) the geographic location or locations, specified in writing, upon which the applicant will provide  
7 and maintain a permanent building to display and sell new motor vehicles and offer and maintain a bona  
8 fide service department for the repair, service, and maintenance of the motor vehicles; and

9 (iii) verification that the applicant otherwise ~~meet~~ meets the requirements of part 2 of this chapter;  
10 and

11 ~~(iv)~~ (i) if the applicant is applying for a new recreational vehicle dealer's license, certification that  
12 the person is recognized by a manufacturer, importer, or distributor as a dealer in new recreational  
13 vehicles.

14 (5) If an applicant for a new motor vehicle or used motor vehicle, new or used recreational vehicle,  
15 or trailer dealer's license wants to maintain more than one established place of business, the applicant shall  
16 file a separate license application for each proposed established place of business and otherwise qualify  
17 for licensure at each place separately.

18 (6) Each application under this section must be accompanied by an application fee of \$5 and one  
19 or more of the following license fees based on the type of dealer's license being sought:

20 (a) \$25 for a new motor vehicle dealer's license;

21 (b) \$25 for a used motor vehicle dealer's license;

22 (c) \$25 for a new or used recreational vehicle dealer's license; or

23 (d) \$25 for a motorcycle or trailer dealer's license.

24 (7) The applicant for a dealer's license shall also file with the application a bond of \$25,000 for  
25 a license as a new motor vehicle dealer, a used motor vehicle dealer, a new or used recreational vehicle  
26 dealer, or a trailer dealer. Applicants for a motorcycle dealer's license shall file a bond in the sum of  
27 \$10,000. All bonds must be conditioned that the applicant shall conduct the business in accordance with  
28 the requirements of the law. The bond may extend to any other type of dealer license issued to the  
29 applicant at the same geographic location, ~~provided that~~ if all types of licenses are indicated on the face  
30 of the bond. All bonds must be approved by the department, must be filed in its office, and must be

1 renewed annually."

2

3 **Section 5.** Section 61-4-105, MCA, is amended to read:

4 **"61-4-105. Criminal penalty -- civil penalty imposed by agency.** (1) ~~Any A~~ EXCEPT AS PROVIDED IN  
5 [SECTION 1], A person violating the provisions of ~~61-3-501, 61-4-101, 61-4-102, 61-4-104, 61-4-120, or~~  
6 ~~61-4-123 through 61-4-126~~ this part is guilty of a misdemeanor and subject to a fine in an amount of not  
7 less than \$250 and not more than \$500. For the purposes of this section, every sale of a motor vehicle  
8 in violation of the provisions of ~~61-3-501, 61-4-101, 61-4-102, 61-4-104, 61-4-120, or 61-4-123 through~~  
9 ~~61-4-126~~ this part is a separate offense.

10 (2) In addition to all other penalties created by this part, the department is authorized to take  
11 appropriate enforcement action on its own initiative. ~~Any A~~ EXCEPT AS PROVIDED IN [SECTION 1], A person  
12 violating the provisions of ~~61-3-501, 61-4-101, 61-4-102, 61-4-104, 61-4-120, or 61-4-123 through~~  
13 ~~61-4-126~~ this part may be subject to administrative action, in accordance with the contested case  
14 procedures of Title 2, chapter 4, as follows:

- 15 (a) a civil penalty not to exceed ~~\$200~~ \$1,000 for each violation;
- 16 (b) suspension of the motor vehicle dealer, wholesaler, or auto auction license not to exceed 5  
17 working days;
- 18 (c) revocation or denial of the motor vehicle dealer, wholesaler, or auto auction license; or
- 19 (d) any combination of subsections (2)(a) through (2)(c)."

20

21 **Section 6.** Section 61-4-123, MCA, is amended to read:

22 **"61-4-123. Dealer requirements and restrictions.** (1) A dealer may not offer for sale, trade, or  
23 consignment any vehicle type not authorized by the license issued to the dealer by the department or use  
24 a dealer or demonstrator plate on a vehicle of a type for which the dealer is not licensed.

25 (2) A dealer may not ~~exhibit~~ display at the dealer's established place of business or any approved  
26 off-premises sale location, a vehicle offered for sale, trade, or consignment unless the Monroney label  
27 required for new motor vehicles pursuant to 15 U.S.C. 1232 or the buyer's guide label required for used  
28 motor vehicles pursuant to 16 CFR, part 455, is affixed to the side window of the vehicle or is  
29 conspicuously displayed within the vehicle in a fashion that is readily readable by a customer.

30 (3) ~~A~~ Except as provided in subsection (4), a dealer may not sell ~~vehicles from a~~ or display a motor



1 vehicle offered for sale at any geographic location other than that of the dealer's established place of  
2 business as listed on the dealer's license unless.

3 (4) (a) A dealer may conduct an off-premises display and sale at a geographic location other than  
4 that of the dealer's established place of business as listed on the dealer's license if the dealer notifies the  
5 department 10 days in advance, on a form prescribed by the department, of the opening date and location  
6 of an off-premises display and sale and obtains a permit from the department. The department may require  
7 proof from the dealer that the location proposed for the off-premises display and sale is in compliance with  
8 local zoning ordinances. Except for recreational vehicle dealers, an off-premises display and sale must be  
9 conducted within ~~the city limits of the city of the dealer's licensed location or upon an adjacent~~  
10 ~~off-premises site that is approved by the department and that is within~~ the county of the dealer's licensed  
11 location. The display and sale may not exceed 10 consecutive ~~business~~ days, and a licensed dealer may  
12 not conduct more than 10 off-premises displays and sales during any 1 calendar year.

13 (b) A dealer may display one or more vehicles inside an airport terminal or shopping mall without  
14 obtaining an off-premises display and sale permit if no actual sales are made, or could be made, at the  
15 terminal or mall.

16 (c) Upon prior written notice to the department, a dealer may display one vehicle at a geographic  
17 location other than that of the dealer's established place of business as listed on the dealer's license if no  
18 actual sales are made, or could be made, at the display location and the display:

19 (i) conspicuously promotes or supports an event or a program sponsored by a nonprofit  
20 corporation or association organized and operated exclusively for religious, charitable, scientific, or  
21 educational purposes and the vehicle is displayed at a location where the event is being held or the  
22 program is being promoted; or

23 (ii) conspicuously promotes a joint commercial endeavor between the dealer and another clearly  
24 identified business entity and the vehicle is displayed on premises owned or leased by the other business  
25 entity and where the other entity regularly conducts its business. A display under this subsection (4)(c)(ii)  
26 may not exceed 90 days.

27 ~~(4)(5)~~ If more than one dealer displays vehicles and maintains an established place of business at  
28 the same geographic location, each dealer shall ensure that all vehicle records, office facilities, and  
29 inventory, if applicable, are physically segregated from those of the other dealer and clearly identified and  
30 attributed to the appropriate dealer.

~~(5)~~(6) A dealer shall install and maintain telephone service at the dealer's established place of business. The telephone service must be listed in the directory assistance that applies to the area in which the business is located.

~~(6)~~(7) A dealer shall conspicuously post at the dealer's established place of business written notice indicating the regular and customary office hours maintained by the dealer.

~~(7)~~(8) (a) It is the responsibility of the dealer to ensure that the department is named as a certificate holder on any garage liability insurance policy held by the dealer, that the minimum term of the policy is 1 year, and that a lapse in ~~required garage keepers legal liability of~~ insurance does not occur as a result of cancellation or termination of a previously certified policy.

(b) This subsection ~~(7)~~ (8) does not relieve a dealer of the mandatory vehicle liability insurance obligation imposed under chapter 6 of this title.

~~(8)~~(9) A dealer shall display at the dealer's established place of business at least one sign stating the name of the business and indicating that vehicles are offered for sale, trade, or consignment. The letters of the sign must be at least 6 inches in height and clearly visible and readable to the major avenue of traffic at a minimum distance of 150 feet."

**Section 7.** Section 61-4-124, MCA, is amended to read:

**"61-4-124. License renewal -- fee -- dealer's license suspension.** (1) On or before December 31 of each year, a dealer shall apply to the department for renewal of the dealer's license for an additional 1-year period.

(2) (a) To qualify for renewal, a dealer shall submit a completed application, in a form prescribed by the department, updating prior submitted information concerning owner identity, other ownership interest, felony conduct, garage ~~keeper~~ liability insurance, and surety bond filings, as originally required under 61-4-101, and providing any other relevant information requested by the department.

(b) The department may also require a renewal applicant to submit one or more current photographs of the dealer's established place of business or the signage for the business.

(c) If a dealer seeks to change the geographic location of the dealer's established place of business, the dealer shall also provide information concerning local land use planning, zoning, and business permitting compliance, if applicable, and a diagram or plat for the proposed location, consistent with the requirements of 61-4-101.

(3) Except as provided in subsection (4)(c), a license renewal application must be accompanied by a \$5 application fee and one or more of the following license fees, depending on the type of license renewal being sought:

(a) \$25 for a new motor vehicle, used motor vehicle, new recreational vehicle, or used recreational vehicle dealer's license; and

(b) \$25 for a motorcycle or trailer dealer's license.

(4) (a) Except as provided in subsections (4)(b) and (4)(c), a used motor vehicle dealer seeking license renewal shall also certify, under penalty of law, to the retail sale of 12 or more used motor vehicles during the expiring license term. A used motor vehicle dealer licensed for less than a full calendar year in the expiring license term shall certify, under penalty of law, to the retail sale of an average of at least one used motor vehicle a calendar month or portion of a calendar month, for which the expiring license was in effect.

(b) The minimum retail sales requirements of this subsection (4) do not apply to a dealer seeking to renew a used motor vehicle dealer's license and either a new motor vehicle dealer's license or a new recreational vehicle dealer's license.

(c) (i) To qualify for renewal, a used motor vehicle dealer who is also a qualified tow truck operator, as defined in 61-8-903, shall certify, under penalty of law, to the retail sale of five or more used motor vehicles during the expiring license term or pay a fee of \$25 in addition to the application and license fee required in subsection (3).

(ii) A renewal applicant licensed as a motor vehicle wrecking facility under Title 75, chapter 10, part 5, is exempt from the minimum retail sales requirements of subsection (4)(a), as well as the additional renewal or the lower minimum sales requirements of this subsection (4).

(iii) If a used motor vehicle dealer also qualified as a tow truck operator loses the status of a qualified tow truck operator under 61-8-903, the dealer's license may be retained for the remainder of the license term, but after the current term, the dealer is subject to the retail sales requirements of subsection (4)(a).

(iv) If a used motor vehicle dealer also licensed as a motor vehicle wrecking facility ceases to do business as a wrecking facility and surrenders the wrecking facility license to the department of environmental quality, the dealer's license may be retained for the remainder of the license term, but after the current term, the dealer is subject to the retail sales requirements of subsection (4)(a).

(d) A dealer who fails to meet the retail sales requirements for license renewal under subsection (4)(a) is not eligible for license renewal and may not submit an application for another used motor vehicle dealer's license or a wholesaler's license for a period of 12 months from the expiration of the dealer's most recent license term.

(5) A dealer whose completed renewal application is received by the department on or before December 31 of the expiring license term may, if necessary, continue dealership operations and display or use dealer or demonstrator plates under the expired license through the last day of February 15 of the following year."

**Section 8.** Section 61-4-125, MCA, is amended to read:

**"61-4-125. Wholesaler's license.** (1) (a) The department is authorized to issue a wholesaler's license to any person ~~that~~ whom it determines is qualified to hold a license under the provisions of this section.

(b) A wholesaler is authorized to sell used motor vehicles, used recreational vehicles, trailers, motorcycles, quadricycles, or special mobile equipment. However, a wholesaler may sell a vehicle only to a dealer, an auto auction, or another wholesaler. Retail sale of vehicles by a wholesaler is not allowed.

(c) A wholesaler's license issued by the department has a term of 1 calendar year, commencing on or after January 1 in the year of issue and expiring on December 31 of the same year.

(d) The department shall design and issue wholesaler demonstrator plates of a similar sequence to demonstrator plates issued to dealers but that conspicuously display the term "wholesaler" or the abbreviation "W".

(2) To qualify for a wholesaler's license, an applicant shall submit a completed application, in a form prescribed by the department, that provides the following:

(a) the name under which the applicant intends to conduct business and the name, address, date of birth, and social security number of any person who possesses or will possess an ownership interest in the business for which the license is sought. If the applicant is a corporation, the personal information required in this subsection (2)(a) must be provided for each corporate officer and the person designated by the corporation to manage or oversee the dealership.

(b) for each person subject to the provisions of subsection (2)(a), information concerning whether the person has:

(i) an ownership interest in a vehicle dealership or wholesaler business in Montana or another jurisdiction and, if so, the name and address of each dealership or wholesaler; and

(ii) been found guilty of, or pleaded guilty to, a felony in this or any other jurisdiction, and, if so, shall provide a summary of the conduct ~~giving rise to~~ resulting in the felony charge, including the dates of the conduct and any judicial proceeding pertaining to the conduct; and the name and address of any court in which the matter was heard;

(c) the name, address, and telephone number of the insurance carrier from whom the applicant has acquired garage ~~keepers~~ liability insurance, naming the department as a certificate holder under the policy, and the name, address, and telephone number of the local insurance agent for the carrier and the applicant's policy number. The insurance must cover any vehicle bearing a wholesaler demonstrator plate that is offered for demonstration or loan to, or otherwise operated by, a customer in the regular course of the applicant's business and must be for a minimum of 1 year.

(d) the street address of the permanent nonresidential building or office where business records will be kept and will be made available for inspection by the department; and

(e) a bond of \$25,000 filed with the department on behalf of the applicant. The bond must be conditioned that the applicant shall conduct business in accordance with the requirements of the law. The bond must be approved by the department and subject to annual renewal.

(3) The application fee for a wholesaler's license is \$5, and the license fee is \$25. Both fees must accompany an original or renewal wholesaler's license application.

(4) Wholesalers may not be issued or use dealer plates, as provided in 61-4-102. However, a wholesaler may be issued and is authorized to display and use a wholesaler demonstrator plate on any type of vehicle that a wholesaler is authorized to sell. The fee for a wholesaler demonstrator plate is \$3. To the extent not inconsistent with this section, use of wholesaler demonstrator plates is otherwise governed by 61-4-129.

(5) (a) A wholesaler's license must be renewed annually, and application for renewal must be filed on or before December 31 of the expiring license term.

(b) To qualify for renewal of a wholesaler's license, a wholesaler ~~must~~ shall submit a completed application, in a form prescribed by the department, updating prior submitted information, as originally supplied under subsection (2).

(c) Additionally, the wholesaler shall certify, under penalty of law, that 12 or more vehicles of the

1 type authorized under the license were sold by the wholesaler to a dealer, auto auction, or another  
2 wholesaler during the expiring license term. A wholesaler who was licensed for less than a full calendar  
3 year in the expiring term shall certify, under penalty of law, to the sale of an average of at least one  
4 vehicle a calendar month, or portion of a calendar month, during which the expiring license was in effect.

5 (d) A wholesaler who fails to meet the sales requirements for license renewal under this section  
6 is not eligible for license renewal and may not submit an application for another wholesaler's license or a  
7 used motor vehicle dealer's license for a period of 12 months from the expiration of the wholesaler's most  
8 recent license term.

9 (6) A wholesaler whose completed renewal application has been received by the department on  
10 or before December 31 of the expiring license term may, if necessary, operate the business and display  
11 wholesaler demonstrator plates under the expired license through the last day of February ~~15~~ of the  
12 following year."

13  
14 NEW SECTION. **Section 9. Codification instruction.** [Sections 1 and 2] are intended to be codified  
15 as an integral part of Title 61, chapter 4, part 1, and the provisions of Title 61, chapter 4, part 1, apply  
16 to [sections 1 and 2].

17  
18 NEW SECTION. **Section 10. Effective date.** [This act] is effective on passage and approval.

19 - END -